

REMARKS/ARGUMENTS

Claims 63 - 125 remain in the case, with Claims 63-87 and Claims 112-125 having been allowed, and Claims 89-93, 97-100, 107 and 110 having been indicated as being allowable if rewritten in independent form. This indication of patentable subject matter is acknowledged.

In the outstanding, non-final Office Action, the Examiner rejected Claims 88, 94-96, 101-106, 108-109 and 111 as being obvious over the newly cited Bala patent in view of the previously applied Feldmeier patent.

By this Amendment, Claim 110 has been made dependent upon Claim 109 instead of independent Claim 88 so as to provide antecedent basis for "at least one packet segment." However, the remaining claims have not been amended because it is submitted that there is not teaching of a combination of the Bala patent with the Feldmeier patent.

The present invention as embodied in independent Claim 88 is directed to an IP packet router system that comprises at least one chunk and an IP packet router that includes an optical switch fabric through which the chunk passes. The claimed system allows a purely optical switch to operate at the core of a large-scale, high data throughput router.

Rejections Under 35 USC §103(a)

As mentioned above, the Examiner rejected Claims 88, 94-96, 101-106, 108-109 and 111 as being obvious over the newly cited U.S. Bala patent No. 6,335,992 (Bala) in view of the previously applied U.S. Feldmeier patent No. 5,583,859. The Examiner stated in part that:

... Bala does not disclose chunk having a payload comprising a plurality of data packets and a framing symbol. However, Feldmeier discloses chunk having a payload comprising a plurality of data packets and a framing symbol (See Figs. 5-8, col. 5, lines 31-67, col 6, lines 1-41. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine chunk having a payload comprising the plurality of data packets teaching by Feldmeier with Bala. The motivation for doing so would have been to provide the ability to process data without intermediate buffering for reordering or reassembly improves protocol processing performance read on abstract. Therefore, it would have been obvious to combine Feldmeier and Bala to obtain the invention as specified in the claim 88.

These rejections are expressly traversed for the reasons stated below, and reconsideration of them is respectfully requested.

The standard of patentability in obviousness rejections under 35 USC §103 is applied by first determining the scope and content of the prior art; then ascertaining the differences between the prior art and the claims considering the claimed invention as a whole; then resolving the level of ordinary skill in the pertinent art; and finally evaluating any evidence of secondary

considerations. Graham v. John Deere Co., 383 US 1, 148 USPQ 459 (1966).

To establish a *prima facie* case of obviousness, the Examiner must establish: (1) that some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all the claim limitations. Amgen, Inc. v. Chugai Pharm. Co., 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); In re Fine, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); In re Wilson, 165 USPQ 494, 496 (C.C.P.A. 1970).

A *prima facie* case of obviousness must also include a showing of the reasons why it would be obvious to modify the references to produce the present invention. See Ex parte Clapp, 277 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). The Examiner bears the initial burden to provide some convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings. Id. at 974.

Applicants respectfully traverse the rejections because all three prongs for a *prima facie* case of obviousness have not been established for each of the rejections. Specifically, there is no teaching in the Bala patent of a need, desire, or even an ability to utilize the teachings of the Feldmeier.

The Bala patent is directed to an optical cross-connect system that is scalable. The patent describes a system that includes a three-stage switch matrix that can be scaled without replacing the first and last stage switches 111 and 131 (See Fig. 1C). This is done by using optical extender modules (OEM's). See for example Bala Column 8, lines 7-27 and Figs. 3 and 4.

However the Bala patent does not mention how the switches are activated to port a signal in one direction or another. In the present invention, this is done by deciphering the content of the of the chunk fields. There is no such teaching in the Bala patent. Nor is there a discussion in the Bala patent about a need to route a signal through one path or another. All the reference teaches is that the switch can be scaled to handle more or less signal paths.

According to the MPEP, Section 2144, the mere possibility that a feature of one reference could be combined into another or that one reference could be modified by another does not make the claim obvious unless "the prior art suggested the desirability of [such a] modification or replacement."

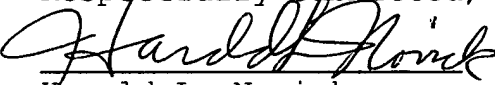
There is no such teaching of combination in either reference. All that has been done is to use hindsight reconstruction based on the teachings of the present application. This is impermissible. Accordingly, the rejection of Claim 88 is traversed.

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The rejections of those claims dependent on Claim 88 are also traversed for the reasons cited above with respect to Claim 88.

Accordingly, reconsideration of the rejections and allowance of the rejected claims are respectfully requested.

Respectfully submitted,
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